

**REMARKS**

The Office Action addresses claims 2-13 and 15-44. Claims 2, 4-13, 15-26, 30-33, 36, 38-41 and 43-44 stand rejected under 35 USC §102. Claims 3, 27-29, 34, 35, 37 and 42 stand rejected under 35 USC §103. These rejections are respectfully traversed. By the foregoing amendment, claims 2-13 and 15-44 remain in the application, and new claim 45 is presented for consideration.

Claims 2, 4-13, 15-26, 30-33, 36, 38-41 and 43-44 stand rejected under 35 USC §102(b) as being anticipated by Yamada et al. U.S. Patent No. 6 568 587. This rejection is respectfully traversed.

It is well established that in order for a claim to be anticipated by a prior art reference, each and every element of that claim must be found in the prior art reference. Yamada et al. '587 discloses a collapsible measuring container formed from a single flat blank folded into a square container. The blank comprises an outer member in the form of a paper sheet providing shape-retainability of the container and an inner member preferably comprising two-layered laminated film-like sheet consisting of stretched polypropylene and polyethylene to provide air tightness (see column 5, lines 11-19 of the '587 patent). The outer member includes a cut out portion so as to form a window in the sidewall of the container, whereby the contents of the container can be seen through the transparent inner member covering the formed window. Yamada et al. '587 does not disclose the container having a withdrawal opening with a bent opening edge, as required by claim 1. The Examiner's indication that the bent opening edge is represented by the edge bending outward to glue the two dimensional object into its three dimensional form, as shown in Figure 10 of the '587 patent, is without basis. The withdrawal opening of the container, being the open mouth of the container, does not include a bent opening edge as claimed. Further, the container disclosed by Yamada et al. '587 is not dimensionally

stable after having been shaped, as evidenced by the requirement for a shape-retainer 14 for keeping walls from moving outward under load, as shown in Figure 10. This requirement for a shape retainer is contradictory to the Examiner's assertion that the container is dimensionally stable, which feature is required by claim 40. Further, the Office Action cites that the container of Yamada et al. '587 is dimensionally stable and fluid tight from -50°C to +120°C, since the container is formed from a laminated film of stretched polypropylene and polyethylene. However, there is no basis in the Yamada et al. '587 reference to assert that the container and the material are dimensionally stable and fluid tight from -50°C to +120°C, as required by claim 40. Again, the container itself is not dimensionally stable because it requires the use of the shape-retainer 14. Therefore, the Yamada et al. '587 clearly does not disclose each and every element of claim 40. Claim 40 is therefore not anticipated by Yamada et al. '587. Claims 2-13, 15-39 and 41-44 depend from claim 40, and further define the invention, and should be considered allowable therewith. Withdrawal of the rejection and reconsideration of the claims are respectfully requested.

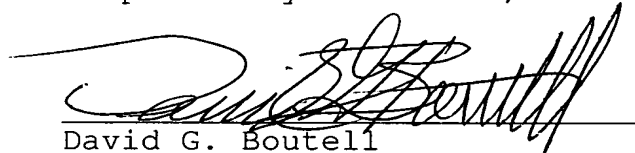
Referring now to new claim 45, the prior art references cited, including Yamada et al. '587, still do not disclose a withdrawal opening with a bent opening edge, nor do the prior art references disclose that the container is dimensionally stable after having been shaped, and wherein the container and the material are dimensionally stable and fluid tight from -50°C to +120°C. Further, Yamada et al. '587 does not disclose that at least the container wall is formed from a transparent fluid tight material. Specifically, Yamada et al. '587 discloses a container having a container wall that is substantially formed from a non-transparent paper sheet-like blank.

With respect to the rejection of the dependent claims under 35 USC §103, none of the secondary references, either

alone or in combination with the primary cited reference, Yamada et al. '587, discloses each and every element of independent claims 40 or 45. Specifically, none of the cited prior art references disclose a container having a container wall formed from a transparent material that is dimensionally stable after having been shaped, and wherein the container and the material are dimensionally stable and fluid tight from -50°C to +120°C. Accordingly, claims 40 and 45 are not anticipated by any of the prior art references cited, and should be considered allowable thereover. Claims 2-13, 15-39 and 41-44, which depend from claim 40, further defining the invention, should be considered allowable therewith. Withdrawal of the rejections under 35 USC §103, and reconsideration of the claims, are respectfully requested.

In light of the foregoing amendment and remarks, the claims remaining in the application should be considered in condition for allowance and early notice of allowability is courteously solicited. If necessary to further prosecution of the application, the Examiner is invited to contact Applicant's representatives listed below.

Respectfully submitted,



David G. Boutell

DGB/DJW/jas

FLYNN, THIEL, BOUTELL  
& TANIS, P.C.  
2026 Rambling Road  
Kalamazoo, MI 49008-1631  
Phone: (269) 381-1156  
Fax: (269) 381-5465

Dale H. Thiel  
David G. Boutell  
Terryence F. Chapman  
Mark L. Maki  
Liane L. Churney  
Brian R. Tumm  
Donald J. Wallace  
Sidney B. Williams, Jr.  
Heon Jekal  
\*limited recognition number

Reg. No. 24 323  
Reg. No. 25 072  
Reg. No. 32 549  
Reg. No. 36 589  
Reg. No. 40 694  
Reg. No. 36 328  
Reg. No. 43 977  
Reg. No. 24 949  
Reg. No. L0379\*

Encl: Postal Card

136.07/05